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C O N F I D E N T I A L SECTION 01 OF 02 NOUAKCHOTT 000041

SIPDIS

E.O. 12958: DECL: 01/18/2020

TAGS: PHUM PREL PGOV MR

SUBJECT: MAURITANIAN SUPREME COURT ANNULS JUDGMENT AGAINST JOURNALIST BUT KEEPS HIM IN PRISON

REF: A. 09 NOUAKCHOTT 549

1B. 09 NOUAKCHOTT 823

1C. 10 NOUAKCHOTT 14

Classified By: Charge Dennis Hankins for reasons 1.4 (b and d)

11. (C) Summary: On January 14, the Mauritanian Supreme Court annulled Taqadoumy editor Hanevy Ould Dehah's sentence, but stated that he should continue to be detained pending retrial. Following this decision, Dehah's lawyers and Mauritanian National Bar Association President Ahmed Salem Ould Bouhoubeini denounced the Supreme Court for violating elementary penal procedure. According to them, the Supreme Court deliberated before the deadline given to lawyers to submit their arguments. Moreover, the decision was made in the absence of Dehah's lawyer, which is contrary to Mauritanian practice. Despite the annulment of his trial, Dehah remains in jail and there is no indication authorities intend to liberate him. No date has been set for a future trial, but it is rumored that the prosecution plans to request a stiffer sentence of at least five years imprisonment. No official explanation has been provided justifying Dehah's arbitrary detention since the end of his six month sentence on December 24. The Supreme Court's decision, rather than providing judicial clarity, further undermines the Government's image in ensuring rule of law. End summary.

12. (C) On January 14, the Supreme Court overturned a decision made on November 23 by the Nouakchott Appeals Court confirming Dehah's August 19 sentence to six months in prison for creating a space that allows individuals to express opinions contrary to Islam and common decency (Ref A), and stated that Dehah had to be re-tried. Lawyers had appealed Dehah's sentence on the basis that there are no existing laws regulating internet publications and that the Mauritanian penal code states that no act should be considered a crime if there is no law against it. As of today, the court has not set a date for the new trial and Dehah remains in jail.

13. (C) The President of the Mauritanian Bar Association, Ahmed Salem Ould Bouhoubeini, explained to PolOff on January 19 that the usual procedure entails that, after lawyers are informed in writing of the sentence, they are given one month to submit their appeal arguments to the Supreme Court. According to the law, lawyers are allowed to be present when the Supreme Court meets to make a decision. Bouhoubeini stressed that the Supreme Court had made its decision before the January 24 deadline given to lawyers to present their arguments. It had deliberated without taking in consideration the lawyers' arguments and without the lawyers being present, which he saw as a flagrant violation of proper procedure. Bouhoubeini told PolOff that the Supreme Court has put itself in a rather interesting legal conundrum as following the annulment of the trial and sentence, there was no reason for Dehah to remain in jail. The usual procedure would be to liberate Dehah until the trial or for the authorities to re-arrest him and place him in preventive detention, for which they needed to issue an arrest warrant.

¶4. (C) On January 19, Human Rights Commissioner Mohamed Lemine Ould Dedde and Human Rights Commission Director Cheikh Tourad Ould Mohamed requested a meeting with PolOff. A defensive Dedde demanded to be informed of the contents of the 2009 Human Rights Report draft and wanted to know what PolOff had written on the Dehah case. When PolOff reviewed her understanding of the Dehah case facts and invited him to provide insight, Dedde snapped he was nobody to comment on the Supreme Court's decision. Mohamed responded he knew that all laws and procedures had been respected but that the government had failed to communicate that properly and that the opposition had exploited the case to make the government look bad. PolOff suggested that by providing an official explanation, the government could participate in the conversation and respond to the accusations if it felt they were unfounded. Dedde did not have anything to add and ended the meeting after inquiring about other aspects of the Human Rights Report and blaming the lack of progress in the trafficking and slavery fronts on insufficient resources and cultural reasons. An aggressive Dedde told PolOff that Mauritania did not have anything to prove to anybody, including the United States. Following the meeting, Human Rights Commission Director Mohamed intimated that he thought the government had done a bad communications job and that he would encourage the authorities to publish an official response.

¶5. (C) Taqadoumy journalist Djibril Diallo contacted PolOff on January 14 to tell her the prosecution intended to request a 3-5 year imprisonment sentence for Dehah in the new trial.

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In addition to condemnation of the Supreme Court's decision by the Bar Association, Mauritanian media and civil society have also reacted negatively. Newspaper Le Caleme published a giant photo of Dehah with the title "We are all Hanevy's". The editorial presented Dehah as a martyr and a defender of democracy and freedom who is paying a high price for opposing the August 6, 2008 coup d'etat. It warned readers that, given the arbitrary tendencies of the regime, "anybody could be detained, accused, judged, condemned, re-judged and re-condemned" at the government's will. The Mauritanian Journalist Union said the Supreme Court's role should have been to denounce Dehah's arbitrary detention instead of continuing to damage the justice system's image by stating that he should be re-tried and kept in jail.

¶6. (C) Comment: Ambassador Boulware raised Dehah's case with the Minister of Foreign Affairs and the Minister of Justice (Ref B and C) emphasizing that the particulars of the Dehah case raised concerns about the Mauritanian governments respect for rule of law. The Minister of Justice told Ambassador that Dehah was kept in jail after the end of his sentence because both his lawyers and the prosecutor had made an appeal to the Supreme Court and that he could not be released until a decision was made (Ref B). He also said that there were other accusations pending against Dehah. Bar Association President Bouhoubeini stated that according to correct procedure, Dehah should have been released after the end of his sentence while awaiting a decision from the Supreme Court. If other charges were pending against him, he needed to be released and re-arrested. Local analysts do not believe the Supreme Court acted independently in its decision and that the Mauritanian Government is intent to detain Dehah despite the damage that detention is doing to it domestically and internationally. End comment.

HANKINS